

Public employees' attorneys ask for expedited decision

Attorneys representing school administrators, teachers and other public employees filed a motion late last week for an expedited verdict in the case involving the state pension reform law, saying that there is no reason for lengthy, costly hearings in light of last month's Illinois Supreme Court decision that said health care benefits were protected under the state constitution's pension protection clause.

The motion filed last week in Sangamon County Circuit Court cited the Illinois Supreme Court's strongly worded 6-1 decision (*Kanerva v. Weems*), arguing "Kanerva allows for only one outcome: The Pension Protection Clause absolutely protects the plaintiffs' pension benefits from the act's diminishments and impairments, without exception. No court may read a limitation into the Pension Protection Clause that is not expressly stated in it, and its expansive language contains no exception for any exercise of the state's alleged 'reserved sovereign powers.' "

Attorney General Lisa Madigan, whose office is representing the state, told reporters in July that the *Kanerva* decision involved different legal issues than the pension reform lawsuit.

"The issue in the *Kanerva* case was whether or not health-care benefits are included in pension benefits," Madigan said at that time. "The issue in the pension reform lawsuit is: What can the legislature and the governor do when there's a real crisis with the state's finances and funding of the pensions?"

The plaintiffs' motion called that defense "a fictional limitation that appears nowhere in the plain and unambiguous language" of the pension clause in the constitution.

John M. Fitzgerald, a partner at Tabet, DiVito & Rothstein LLC who represents a group of active and retired administrators and teachers that was the first to challenge the pension law in court last year, told the Chicago Daily Law Bulletin that the *Kanerva* ruling was a "game-changer."

"The Supreme Court very clearly said it will not read new exceptions into the pension protection clause of the Illinois Constitution," Fitzgerald said. "There can't be an implied police power to do something that the constitution expressly prohibits."

The next hearing in the case is scheduled for September 4. We will continue to follow this case and provide updates the status of the lawsuit.